

SUBCOMMITTEE NO. 4

Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe



Thursday, May 8, 2008
10:00 a.m. or upon adjournment of session
Room 112

Consultant: Bryan Ehlers

“B” Agenda

Item Number and Title

Page

Vote-Only Items

CS 11.00 EDP/Information Technology Reporting Requirements2

Discussion Items

0502 Office of the Chief Information Officer3
0650 Office of Planning and Research4
1760 Department of General Services6
1955 Department of Technology Services.....14
8640 Political Reform Act of 197416
8855 Bureau of State Audits.....17

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Item Proposed for Vote-only

Control Section 11.00 EDP / Information Technology Reporting Requirements

This Control Section (CS) generally requires departments to obtain DOF and legislative approval before entering into an IT project contract that would increase the budgeted cost of the project by more than \$500,000 or 10 percent, whichever is less.

Staff Comment: This item was previously held open to allow staff to discuss with the Legislative Analyst's Office (LAO), the Department of Finance (DOF), and Office of the Chief Information Officer (OCIO) the potential need for a technical change to tighten up the reporting required under this CS. However, based on subsequent discussions, and because the Subcommittee faces many more pressing issues in the current fiscal crisis, staff has clarified the Legislature's expectations regarding reporting under the CS and all parties will address the need for language revisions at a future date, as needed.

Staff Recommendation: APPROVE AS BUDGETED.

VOTE on Vote-Only Item:

Items Proposed for Discussion

0502 Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) establishes and enforces statewide information technology strategic plans, policies, standards, and enterprise architecture, and provides review and oversight of information technology projects for all state departments.

The OCIO was created under Chapter 183, Statutes of 2007 (SB 90—Budget Trailer Bill), and was initially provided \$4.7 million special fund, and 23.4 positions in FY 2007-08. The Governor's Budget proposes \$6.7 million GF and 32.3 positions for the OCIO in FY 2008-09.

DISCUSSION ITEM:

Pro Rata/SWCAP Cost Recovery Proposal. The Governor's Budget includes \$6.7 million GF as an ongoing funding source for the OCIO. The Administration proposes to use a Pro Rata and Statewide Cost Allocation Plan (SWCAP) cost recovery program to support the GF expenditure.

Staff Comment: The OCIO's budget, including the proposal to fund the agency under a Pro Rata/SWCAP Cost Recovery plan, was discussed at a previous hearing. Although prepared to recommend approval of the item, the Chair held the item open as a courtesy to an absent Senator Dutton. Senator Harman, Senator Dutton's successor on the Subcommittee may wish to comment on the proposal.

Staff Recommendation: APPROVE the OCIO budget.

VOTE:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments, and also oversees programs for small business advocacy, rural policy, and environmental justice. Additionally, the office has responsibilities pertaining to state planning, California Environmental Quality Act (CEQA) assistance, environmental and federal project review procedures, and volunteerism. The California Volunteers program (CaliforniaVolunteers) administers the federal AmeriCorps and Citizen Corps programs and works to increase the number of Californians involved with service and volunteerism.

The Governor's Budget begins by funding 99.1 positions (including 7.0 new positions) and budget expenditures of \$52 million (including \$10.6 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately \$1.0 million.

VOTE-ONLY ITEM:

1. Finance Letter (FL)-1: Technical Correction. The OPR seeks to correct an inadvertent technical error in the preparation of Budget Bill Item 0650-001-0001. The correction requires an increase of \$572,000 to the State Planning and Policy Development Program and an offsetting reduction of \$572,000 to CaliforniaVolunteers.

Staff Comment: The errors in question were clerical in nature and are related to adjustments for employee compensation and a land use study that were originally reflected in the wrong budget item.

2. Staff Issue: Additional Technical Correction. The OPR indicates that another error was made in building the FY 2008-09 budget for the California Volunteer Matching Network (CVMN). With the CVMN set to expire after two years, at the end of FY 2007-08, the OPR removed \$1,140,000 (the original, FY 06-07, level of funding) from Item 0650-001-0001, Program 21, instead of the \$1,203,000 provided in the FY 2007-08 base budget. Therefore, the aforementioned item needs to be reduced by an additional \$63,000.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS 1 and 2: APPROVE the technical corrections.

VOTE on Vote-Only Items 1 and 2:

DISCUSSION ITEMS:

1. BCP-1: Senate Bill 97 Implementation, CEQA Guidelines. The OPR requests \$537,000 GF and 4.0 positions on a one-time basis to implement Chapter 185, Statutes of 2007 (SB 97—Dutton), which requires the OPR to prepare and transmit to the

Resources Agency by July 1, 2009, draft guidelines (state regulations) for the mitigation of greenhouse gas emissions, as required by CEQA.

Staff Comments: This issue was previously heard on March 26, 2008, and the Chair indicated his inclination to deny the proposal unless the Administration was able to show that the request would directly impact health and safety, and/or generate off-setting savings. The issue was held open as a courtesy to Senator Dutton who was absent at the time. Staff notes that, to date, the Administration has been unable to provide information adequate to address the Chair's concerns.

Staff Recommendation: DENY the request based on the fiscal crisis-criteria outlined by the Chair, and encourage the Administration to carry out the intent of the legislation to the degree possible using existing resources.

VOTE:

2. FL-2: Transfer of Governor's Mentoring Partnership to CaliforniaVolunteers.

The Governor proposes to transfer the resources currently associated with the Governor's Mentoring Partnership (1.0 position and \$107,000 GF) from the Department of Alcohol and Drug Programs to CaliforniaVolunteers.

Staff Comment: Executive Order S-02-08 directed the Governor's Mentoring Partnership (GMP) to be relocated to CaliforniaVolunteers, and this request indicates the merger would "strengthen current efforts to increase the number of Californians who mentor youth, improve efficiencies of programming, and create a single point of contact for all nonprofits seeking volunteers and mentors."

According to the OPR, CaliforniaVolunteers "currently has strong relationships with a number of nonprofit organizations that recruit, train, and match potential mentors." Staff notes that, while additional resources could assist CaliforniaVolunteers in expanding its efforts in this area, the requested transfer of resources is not necessary to make CaliforniaVolunteers the single point of contact for those seeking volunteers and mentors—that is, the "powers and duties" of the GMP are separate and distinct from any staff and resources it has been provided. Rather, the subcommittee may wish to eliminate the 1.0 position proposed for transfer and score \$107,000 GF savings, unless the OPR can demonstrate that these resources would generate greater benefits at CaliforniaVolunteers than in providing direct services in some other programmatic capacity.

Staff Recommendation: DENY the request, eliminate the position, and score \$107,000 GF savings.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of \$1.2 billion (including \$7.9 million General Fund) for the department, but then includes a 10-percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately \$794,000, to be taken from the State Capitol maintenance and repairs program.

VOTE-ONLY ITEMS:

1. FL: Custodial Services for the Department of Technology Services (DTS) and the Department of Motor Vehicles (DMV). The DGS requests 17.0 positions, including one Custodian Supervisor II, to be paid for out of existing resources to provide custodial services to the DTS and DMV at the following locations:

- DTS – 3101 Gold Camp Drive, Rancho Cordova (6.0 custodians)
- DMV – 7775 La Mancha Way, Sacramento (3.0 custodians)
- DMV – 6400 Manila Avenue, El Cerrito; and 501 85th Avenue Oakland (5.0 custodians)
- DMV – 11400 West Washington Blvd., Culver City (2.0 custodians)

Staff Comment: The Department of Finance (DOF) has informed staff that the 10.0 positions requested for DMV should be removed from the proposal because the corresponding DMV request for increased appropriation authority was denied by the DOF. Of the remaining 7.0 positions, 6.0 would supplant services currently contracted out to the Lincoln Training Center (LTC) at the DTS Gold Camp facility. Staff notes that the remaining 1.0 position, a custodian supervisor, does not appear to be justified by the requested 6.0-custodian increase given that the DGS required only 1.0 supervisor for 13.0 new custodians in an earlier BCP approved by the Subcommittee (Ronald Reagan Building).

Staff Recommendation: APPROVE 6.0 custodians for the DTS Gold Camp site and DENY the remaining 11.0 positions.

2. BCP-10: Legal Services Workload. The DGS requests 3.0 positions to address additional workload in the DGS Office of Legal Services (OLS).

Staff Comment: This item was discussed at a previous hearing and held open to provide the DGS with an opportunity to demonstrate the workload supporting the request was more than speculative. However, upon further review, the Administration has elected to withdraw this request due to insufficient workload justification.

Staff Recommendation: DENY the request (in recognition of the fact that the Administration no longer supports this request).

3. FL: General Fund Appropriation to Refund Federal Unallowable Costs. The DGS requests \$3,250,000 GF to refund federal unallowable costs related to the Legislature and the Governor's Office that were incurred in FYs 2002-03, 2003-04, and 2004-05.

Staff Comment: Historically, the DGS budget contained a GF appropriation to cover certain general government services and costs, including some related to the Legislature and the Governor's Office. However, DGS' GF appropriation was deleted for FY 2002-03 and was not restored again until FY 2005-06. During the three intervening fiscal years, over \$17.0 million in unallowable costs were included in DGS rates billed to client agencies, including \$3,250,000 in federal non-reimbursable costs. Although the Department of Finance reached an agreement to allow the state to delay repayment of these funds until September 1, 2008, and pay interest at the state's internal rate of return, if the funds are not repaid at that time, the interest will begin accruing at the current Private Consumer rate, which will likely be higher.

Staff Recommendation: APPROVE the request.

4. Capital Outlay FL: Renovation of H and J Buildings—Patton State Hospital. The DGS requests reappropriation of \$2,017,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990), originally approved in FY 2007-08 for working drawings in the renovation of buildings H and J at Patton State Hospital.

Staff Comment: According to the DGS, the preliminary plans were originally anticipated to be completed before June 2008, but the schedule has been extended in order to have the project designed and certified to LEED-NC (Leadership in Energy Efficient Design-New Construction) standards. The DGS now anticipates the preliminary plans will be completed in July 2008 and working drawings in February 2009.

Consistent with the action taken on other seismic safety capital outlay projects, the Subcommittee may approve the requested reappropriation of "old" earthquake safety bond dollars and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified.

Staff Recommendation: APPROVE the request.

5. Capital Outlay FL: Sacramento Public Communications Decentralization. The DGS requests \$812,000 (various funds) to proceed with preliminary plans for the relocation of critical public safety communications from the top floor of the Resources Building in Sacramento to more seismically safe and less centralized locations.

Staff Comment: The Legislature approved FY 2007-08 funding for the acquisition phase of this project from a variety of sources including the State Highway Account,

Motor Vehicle Account, Fish and Game Preservation Fund, Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990.

The DGS anticipates future project costs of \$3.2 million in FY 2009-10 for working drawings, and \$22.0 million in FY 2010-11 for construction. These costs would be funded from the same sources identified above, except newly proposed infrastructure bond funds would replace the “old” earthquake safety bond funds. Staff notes that the Subcommittee previously denied (March 26) the Administration’s trailer bill language containing the new infrastructure bond proposal. However, consistent with the approval of 2007-08 funding for this project, the Subcommittee may wish to approve this request and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified to replace the “old” earthquake safety bond dollars.

Staff Recommendation: APPROVE the request.

VOTE on the Staff Recommendation for Vote-Only Items 1 through 5:

DISCUSSION ITEMS:

1. BCP-12: Bond Accounting Workload. The DGS requests 5.0 positions and \$464,000 (Service Revolving Fund) in FY 2008-09 (and an additional 3.0 positions and \$268,000 in FY 2009-10) to address increased bond accounting workload resulting from: (1) historic growth in State Public Works Board (SPWB) revenue bonds, including \$7 billion in outstanding bonds, half of which has emerged in the last six years; (2) \$7.3 billion in new SPWB revenue bonds authorized under Chapter 7, Statutes of 2007 (AB 900) for the Department of Corrections and Rehabilitation Prison Bed Construction Project; and (3) \$64 million in California Energy Commission bonds that were transferred to the DGS effective August 2007.

Staff Comment: During discussion at a previous hearing, the Subcommittee raised concern that the workload associated with AB 900 projects was highly speculative given that no projects have yet been approved. Since that time, the Administration has revised its proposal and withdrawn the request for 2.0 of the positions associated with this workload. Staff notes no concerns with the remainder of the workload.

Staff Recommendation: DENY 2.0 positions (proposed for FY 2009-10) and APPROVE the remainder of the BCP (5.0 positions in FY 2008-09 and 1.0 in FY 2009-10).

VOTE:

2. FL: Office of State Publishing (OSP)—Graphic Design Workload for Department of Public Health (DPH). The DGS requests 2.0 positions, to be supported by redirected resources, to address additional workload resulting from a contract with the California DPH for the development and revision of educational materials and forms.

Staff Comment: The federally funded Women, Infant and Children (WIC) Program has proposed a three-year contract with the OSP for design, video, printing, and distribution services. According to the DGS, the OSP is staffed to handle all of the work required except the graphic design, which would require an additional 2.0 full-time Graphic Designer III's. The cost of these Graphic Designers would be fully recovered in reimbursements to OSP through the contract; however, if the Subcommittee decides to approve the requested permanent positions then it should require the department to verify the need (via reporting) for the positions to remain permanent at the end of three years.

Staff Recommendation: APPROVE the request with supplemental reporting language to be developed by staff (requiring the OSP to inform the Legislature of the actual workload and the need for ongoing position authority at the end of the proposed three-year contract).

VOTE:

3. FL: Office of Administrative Hearings (OAH)—Unanticipated Workload in Special Education Resolution Program. The DGS requests 3.5 positions and \$357,000 (special fund) to address new and unanticipated special education resolution program workload.

Staff Comment: Federal special education law requires that states receiving federal special education funding maintain a due process system to resolve disputes between parents and school officials regarding compliance with federal laws governing the education of students with disabilities receiving special education services. Federal law prohibits the California Department of Education (CDE) from acting as the administrative hearing agency for such disputes, in order to avoid conflict of interest.

Prior to 2004, California law required the CDE to contract with a single nonprofit organization or entity to provide due process services. This statute reflected the interest in maintaining some impartiality or independence for this function. Beginning in 1989, the CDE contracted with the McGeorge School of Law to serve as the administrative hearings agency for these disputes. However, the California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment (CASE) launched a successful challenge to the McGeorge contract and budget trailer bill language was approved as part of the Budget Act of 2005 to allow the CDE to contract with a state agency to perform the work. In a subsequent open bid process, the OAH came in 30 percent lower than McGeorge and won a three-year, \$30.4 million contract to provide dispute services. That year, the education omnibus budget trailer bill, SB 63, codified various data requirements for the new due process contract in order to assure the continuation of data previously provided by McGeorge.

According to the DGS, this request for 3.5 additional positions is necessary because, with the OAH's original three-year contract set to expire, the new interagency agreement (IA) with the CDE would place expanded mandates upon the OAH, including additional reporting requirements. However, staff notes that most of the requirements contained in the new IA, and identified by the OAH as "new" workload, appear to be minor variations on existing reporting. Many are merely more explicit descriptions of data that the OAH is already required to track, or would, of necessity, already be tracking in the normal

course of business. Although staff notes that some proposed requirements may impose new work (for example, the OAH would have some enhanced training responsibilities and need to keep the CDE apprised on these activities), it is unclear that the OAH needs additional resources to meet these requirements. The OAH was originally staffed based upon an estimated annual workload of 3,410 cases; however, given that only 2,747 cases were filed in FY 2006-07, and only 3,000 are expected to be filed in FYs 2007-08 and 2008-09, staff believes that the OAH ought to be able to meet all expectations under the proposed IA within existing resources. Staff additionally notes that the CDE has not been provided additional funding authority to increase the amount of the contract.

Staff Recommendation: DENY the request.

VOTE:

4. Capital Outlay FL: Library & Courts Building Renovation—Cost Increase (with Provision Language). The DGS requests a \$16.0 million (special fund) supplemental construction appropriation for renovation of the Library & Courts Building in Sacramento.

Staff Comment: At an earlier hearing, the Subcommittee approved a reappropriation of construction funds that was made necessary by delays to this project. The delays arose when the original plan to phase construction around continuous occupancy of the Library & Courts Building had to be abandoned because it was determined that the safety of the occupants and historical documents would have been substantially compromised. This request reflects a 32.5 percent increase in project construction costs stemming from the delay and other factors. The DGS attributes the cost increases to:

- 1) Availability of more detailed drawings on which to base estimates;
- 2) Delay of construction;
- 3) Rapid escalation in costs for raw materials and increased labor rates;
- 4) Program efficiency enhancements.

While construction project delays are not uncommon, and increased costs nearly always accompany such delays, staff notes that some of the increased costs contained in this request are the result of other decisions made by the DGS. For example, \$2.7 million of the increase reflects a change in the scope of the project to make tenant improvements in the Library & Courts Building so that Courts' staff currently located at the Library & Courts II Annex (the Annex), at 900 N Street, may be permanently relocated across the street at the Library & Courts Building. Currently, Library and Courts staff are each divided between the Annex, and the Library & Courts Building; however, with the need to temporarily relocate staff, the Administration determined that operational efficiencies could be achieved by permanently moving all Courts staff into the Library & Courts Building once renovation was complete. Staff notes that this request does not contain any quantitative analysis to support the Administration's claims of increased efficiencies. However, in supplemental materials forwarded to staff, the Administration claims the following benefits would accrue to the state as a result of the requested move and associated tenant improvements:

- **Storage** – Approximately \$11,000 in annual off-site file-storage costs avoided.

- **Security** – Approximately \$56,000 in annual cost avoidance associated with requiring one less Court security staff (currently assigned to monitoring the Annex).
- **Records & Documents** – Approximately 812 annual hours of avoided “travel time” between the two buildings (currently required in order to deliver various records and documents, such as urgent writs). Staff notes that this estimate equates to nearly 0.5 Personnel Years, but the Administration does not recognize any associated cost savings. Rather, the Administration wishes to view this as an opportunity to achieve increased service capacity (through improved efficiency), while holding existing programmatic expenditure levels constant.
- **Chamber Space / Additional “Judge” Costs Avoided** – Approximately \$669,000 in annual costs avoided in out years due to the ability to house a pro tem judge in additional chamber space, thus avoiding the need to hire a 12th Appeals Court justice and related staff (including 3.0 staff attorneys and judicial assistant) to address an increasing caseload.

Staff notes that, while the above estimates appear analytically reasonable, the Administration has indicated no willingness to “score” the estimated cost savings by reducing the Courts’ budget. Therefore, the Subcommittee must determine whether the additional Budget Year cost is justified by improved program performance alone, as opposed to off-setting fiscal benefits (that would be reflected in the state’s “bottom line”).

Additionally, staff notes procedural concerns that the DGS has proposed such significant changes to this project after working drawings were 75-percent complete. While the Subcommittee may hear testimony that adequately addresses the above cost concerns, it may wish to consider whether approval of the expanded scope of this project would set a bad precedent, and, instead, choose to deny a portion of the requested funding for this reason alone.

Staff Recommendation: APPROVE \$13.3 million, but DENY \$2.7 million unless the Administration is willing to “score” consolidation savings by reducing the Courts budget.

VOTE:

5. Informational Item: Shower Repairs at the Veterans Home of California (VHC)—Chula Vista. Multiple shower benches at VHC—Chula Vista have failed over the past several years and the Administration recently provided the Legislature with notification for the approval of \$2.6 million (GF) in deficiency funding to renovate 81 showers at the facility.

Staff Comments: On September 12, 2007, the Department of Finance (DOF) submitted to the Legislature a “Notification of Receipt of Deficiency Funding Requests from the [California] Department of Veterans Affairs [CDVA]” that included \$1.0 million to remediate “issues resulting from improperly constructed showers” at Chula Vista. Although the notification did not provide many additional details on the nature of the problem, the Legislature learned from CDVA and DOF staff that in June 2007 a shower bench had failed (come out of the wall) while in use by a resident. As the Assembly Committee on Veterans Affairs held a November hearing on the matter and more information continued to emerge throughout the fall and winter, the Legislature learned that this was not the first shower bench failure at Chula Vista. In fact, the DGS—who

oversaw construction at the home—had returned to Chula Vista in 2002, shortly after the home opened, to correct improper installation of shower benches in the Skilled Nursing Facility (SNF) unit, only for a shower bench to come loose from the wall in SNF Unit 300 in December 2005. In this latter instance, the CDVA identified the problem as an “integral defect”—no moisture barrier and improper tile substrate (allowing water to infiltrate the tile and reach the wooden substructure)—and the department subsequently began repairs to all showers in the unit. However, the CDVA did not test shower walls in other units and therefore did not detect a larger problem until another shower bench (in a different building) failed in 2007.

As the need for the CDVA to rapidly repair previous shower problems erased the forensic evidence necessary for the DGS to diagnose the root cause of the shower bench failures, the DGS recently undertook destruction of multiple showers to ascertain the root cause of the failures. The following statement from the DGS documents the department’s most recent efforts and near-term plan for addressing the shower problems at Chula Vista:

The DGS is working with the CDVA to take action to address any issues associated with the construction deficiencies and in particular the water intrusion into the wall cavities in the shower rooms throughout the Chula Vista campus. In March 2008, the DGS proceeded with a forensic investigation of the water intrusion into twelve showers to assess the cause of the water intrusion. The investigation started on March 3, 2008 and concluded on March 21, 2008. During the initial investigation samples were taken of cultures inside the wall cavity and air samples were also taken inside the wall cavity and outside in the occupied space. All of the rooms were identified with mold cultures and ten of these twelve showers were identified with water intrusion in the wall cavity.

The identified causes of the water intrusion were the following:

- *The shower waterproofing pan is minimal (one layer of hot mopped felt) and the felt does not continue up the walls of the shower.*
- *The escutcheon plate around the shower valves tend to leak.*
- *The electrical box in the showers for the nurse call system in some showers is not water tight.*

The estimated cost to complete the shower repairs is \$2,610,000. The actual cost will be known when the bids are received which is scheduled for early June. The construction phase of the shower repairs is scheduled to start in July and is estimated to be complete in 20 months.

DGS is in the process of conducting a further investigation to determine the cause and the responsible party associated with the construction deficiencies at the Chula Vista Home. Since CDVA occupied the Chula Vista Home, staff determined immediate repair was necessary for the health and safety concerns of the occupants. As a result, this did not allow the general contractor an opportunity to review and determine whether they had any responsibility in correcting the defects. The State may have minimized its position related to the responsibility associated with the construction deficiencies. However, the State did forward on March 7, 2008 a notification letter to the contractor and its sureties of the construction defects found at the Chula Vista Home. Several of the

sureties and the contractor's representative that finished the project have contacted the State for further information. It is anticipated that the consultant will start further investigation the first week in May with completion data by mid June. Upon completion of the investigation, DGS will provide an updated report on the findings which will identify the ultimate cause and responsibility for the known deficiencies.

Staff notes that the Legislature has raised no objections to funding the requested deficiency, because ensuring the health and safety of veterans home residents is the state's most immediate concern. However, as has been discussed in CDVA budget hearings, the Legislature also wants to make certain that the following questions are ultimately answered to its satisfaction:

- (1) **What is the problem with the Chula Vista showers?** Did the shower bench failures result from inadequate/defective design or failure to properly execute an adequate/effective design? Why do we have water intrusion in shower walls at a relatively new facility?
- (2) **How did the state building design and construction process break down such that the shower "problem" was allowed to develop?** If the design was adequate but carried out improperly by the contractor, was the decision to deviate from the design made and signed off on by the DGS, or did the contractor make a unilateral decision? If the former, who made the decision and why? If the latter, how did the DGS or the CDVA fail to catch the issue before the state took over the building? Does the contractor bear fiscal responsibility for any or all of the \$2.6 million in projected shower repair costs?
- (3) **What is the DGS doing to ensure that the "problem" identified above is corrected relative to future projects?** Although the individuals originally assigned to the Chula Vista project may no longer be with the DGS, what steps has the department taken to develop policies and procedures to safeguard against a recurrence of similar construction problems?

Given that the DGS is still investigating this matter, the Subcommittee may wish to request the department to continue to update staff on future developments, including the results of the continuing investigation, scheduled for completion in mid-June 2008.

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the reorganization and consolidation of the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. The DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 805.5 positions (a net increase of 37.7 positions relative to current year adjusted totals) and expenditures of \$279.6 million (special fund).

VOTE-ONLY ITEM:

BCP-6: Security Workload. The DTS requests 4.0 positions and \$415,000 (DTS Revolving Fund) to address serious security deficiencies in the current DTS systems and architecture.

Staff Comment: As discussed at a previous hearing, this request contained no quantified workload justification when it was transmitted to the Legislature. Due to the sensitive nature of information technology security, the Subcommittee gave the department the benefit of the doubt and held the item open rather than denying it outright.

Based upon additional information provided by the DTS, staff no longer has concerns with this proposal. According to the DTS, these positions would be used to address the areas of asset protection and vulnerability management.

Staff Recommendation: APPROVE as budgeted.

VOTE:

DISCUSSION ITEM:

FL: New Central California Data Center—Request for Long-Term Lease with Purchase Option Authority. The DTS requests provisional language to be added to Item 1955-001-9730 to authorize the DGS to enter into a long-term lease with purchase option for a new Central California data center.

Staff Comment: As discussed at a previous hearing, the DTS currently operates two main data centers in the Sacramento area—Gold Camp and the Cannery. The DTS proposes to replace the data center capacity currently located at the Cannery site and provides all of the following as justification:

- Given their close proximity to one another, the DTS is concerned that both data centers could be compromised in the event of a disaster in the Sacramento area. This represents a threat to DTS operational recovery.
- Based on a 2006 analysis performed by an outside evaluator, several risks are inherent to the Cannery site, including the following: (1) the site is located in the 100-year floodplain and there is no practical way to mitigate the risk; and (2) the site has security vulnerabilities because it is located adjacent to train tracks and busy streets with no perimeter boundary or fencing.
- According to the same 2006 analysis referenced above, the Cannery facility has infrastructure problems, such as inadequate electrical and cooling systems, which would require in the range of \$16.0 million to \$23.0 million to address.
- The Cannery lease is due to expire in May 2011, and the landlord has indicated a desire to convert the property to residential use rather than renew the state lease.

Based on the above, the DTS began working with the DGS to look for an alternative data center site outside the Sacramento area. The DTS now indicates that a potential site has been identified in Central California and the department is seeking authorization to enter into a lease-purchase agreement for a build-to-suit facility. According to the DGS, based on an occupancy date of 2011, the total project development costs would run approximately \$117.0 million, with a 25-year term and private financing of 5.57 percent.

Because the cost of this request would ultimately be borne by DTS customers, the Subcommittee may wish to hold this item open until the May Revise hearing, by which time the Administration will have had time to respond to the following clarifying questions recently raised by staff:

- What is the likely rate impact that would result from the current DGS cost estimate? Will the Administration agree to budget bill language requiring an updated rate impact estimate to be provided with the 30-day notice of intent to enter into the lease agreement?
- What is the basis for the DGS' current rent estimate? (For example, what geographic area was used as the basis for the calculations? What other key assumptions were made?)

Staff Recommendation: HOLD OPEN.

VOTE:

8640 Political Reform Act of 1974

Statute appropriates various amounts to the Secretary of State, the Franchise Tax Board, and the Department of Justice to carry out their duties under the Political Reform Act of 1974.

The Governor's Budget begins by providing \$2.8 million GF for this item, but then includes a 10 percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction—BBR) of \$275,000 (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction. The Governor proposes a \$275,000 unallocated GF reduction to the Political Reform Act of 1974 item.

Staff Comment: The Governor's proposed reduction would be shared among the three departments funded by this item as follows:

- Secretary of State (SOS) to be reduced by \$79,000 (from \$790,000 to \$711,000).
- Franchise Tax Board (FTB) to be reduced by \$175,000 (from \$1,747,000 to \$1,572,000).
- Department of Justice (DOJ) to be reduced by \$21,000 (from \$216,000 to \$195,000—with the reduction taken in program 50 - law enforcement).

This item was held open at a previous hearing due to insufficient information from the Administration. However, based on the subsequent detail provided, staff has no significant concerns with the following anticipated impacts of the reduction:

- SOS—Eliminate publication of a hard copy Lobbyist Directory. The directory would be available on-line and on a compact disc (available for \$10).
- FTB—Eliminate 2.0 audit positions resulting in a reduction of audits completed. The FTB indicates that the reduction would affect only low-priority (general purpose and lobbyist) audits in FY 2008-09, but would likely result in 40 uncompleted, high-priority audits of candidates (for office) in FY 2009-10.
- DOJ—Reduce the Division of Law Enforcement. The DOJ indicates that Item 9640 funding makes up only a portion of the funding in this area and would have a minimal impact on operations.

As noted during the discussion on the Fair Political Practices Commission (FPPC), the Political Reform Act of 1974 instituted programs that play a critical role in ensuring that the public has confidence that the political process in California is free of improper influencing of public officials. Therefore, due to the likelihood that this reduction would result in fewer high-priority audits of political candidates, the Subcommittee may wish to deny this reduction. Staff notes that this action would be consistent with the action taken to deny the Governor's proposed reduction of the FPPC.

Staff Recommendation: DENY the reduction.

VOTE:

8855 Bureau of State Audits

The Bureau of State Audits (BSA) promotes the efficient and effective management of public funds and programs by providing independent, objective, accurate, and timely evaluations of state and local governmental activities to citizens and government. By performing financial, compliance, and performance audits, conducting investigations and other special studies, the State Auditor provides the Legislature, the Governor, and the citizens of the state with objective information about the state's financial condition and the performance of the state's many agencies and programs

The Governor's Budget begins by funding 161.0 positions (a net increase of 6.0 positions over adjusted current year totals) and expenditures of \$17.5 million GF, but then includes a 10-percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately \$1.6 million (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction / FL: Restoration of GF Reduction. The Governor proposes a \$1.6 million unallocated GF reduction to the BSA's budget, but, through a Spring Finance Letter (FL), seeks to restore all \$1.6 million.

Staff Comment: This item was discussed at a previous hearing and held open for Senator Dutton, who was absent.

Staff Recommendation: DENY the BBR and TAKE NO ACTION on the FL.

VOTE: